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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Inquiry concerning Kyrgyzstan under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

Observations of Kyrgyzstan*

I. Introduction

1. As is noted in the CEDAW report, Kyrgyzstan consented to a visit by designated members and provided those members with the opportunity to meet with a wide range of individuals, including senior officials, to conduct an inquiry and visit a number of organizations. In 2017, following the visit, the Government supplied information additional to that provided earlier for 2013–2016.

II. Legal and institutional frameworks

2. While Kyrgyzstan shares the concern reflected in the CEDAW report, it wishes to emphasize that it is implementing comprehensive measures to improve legislation and law enforcement practices, as well as awareness-raising and educational measures and measures aimed at improving the quality of legal, medical and psychological, social and other essential services.

3. Under the Criminal Code of Kyrgyzstan, bride kidnapping constitutes a criminal offence in Kyrgyzstan. The punishment for it is stipulated in Articles 154 and 155 of the Criminal Code. Pursuant to Act No. 9, of 25 January 2013, on amending the Criminal Code of Kyrgyzstan, the punishment for the above-mentioned crimes has been made more severe as follows:

- Pursuant to Article 154, Sect. 2, "Abducting a person under seventeen years of age for the purpose of entering into de facto marital relations with them shall be punishable by a term of imprisonment of five to ten years";
- Pursuant to Article 155, Sect. 2, "Abducting a woman for the purpose of entering into marriage with her against her will shall be punishable by a term of imprisonment of five to seven years";

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- Pursuant to Article 129, Sect. 3, the rape of a minor shall be punishable by "a term of imprisonment of 15 to 20 years".

4. Pursuant to Act No. 179 on amending certain legislative acts of Kyrgyzstan (the Family Code and the Criminal Code of Kyrgyzstan) adopted on 17 November 2016:

- Article 14, paragraph 3 of the Family Code of Kyrgyzstan stipulates that "those responsible for violating the requirements regarding the minimum age of marriage in the present Code shall be held liable in accordance with the legislation of Kyrgyzstan";

- Article 155(1) of the Criminal Code of Kyrgyzstan stipulates that the parents (or guardians) of a minor who undergoes a religious wedding ceremony and persons who conduct a religious wedding ceremony involving a minor, as well as adults who undergo a religious wedding ceremony with a minor in violation of the law on the minimum age of marriage, shall be punished by a term of imprisonment of three to five years;

- The new Act of Kyrgyzstan on protection against domestic violence was adopted in 2017 and addressed the gaps of the previous law (the Social and Legal Protection against Domestic Violence Act (2003)), strengthening coordination and interaction among State agencies in the areas of prevention and response, as well as the assistance and support provided to victims.

5. In accordance with an assessment carried out by the Ministry of Justice, Kyrgyzstan has established a robust legal framework for the required comprehensive law enforcement and preventive and social action. In the light of this, efforts should be focused on enhancing the effectiveness and capacity of the legal framework, and on improving staffing, informational, financial and logistical support.

III. Law enforcement

6. Prosecutorial authorities monitor the activities of internal affairs agencies to prevent and investigate bride kidnapping and related sexual violence. During proceedings relating to this type of criminal case, prosecutors are responsible for supporting the public prosecution. In cases where violations are found to have occurred, prosecutors must respond accordingly.

7. With a view to improving law-enforcement practices, ordinances governing the activities of the State authorities in connection with the implementation of those laws have been drafted. Thus, in 2017, an inter-agency Plan on implementing Act No. 179, of 17 November 2016, on amending certain legislative acts of Kyrgyzstan (the Family Code and the Criminal Code of Kyrgyzstan) was adopted and approved by joint order No. 85, of 29 November 2017, of the Ministry of Labour and Social Development of Kyrgyzstan, the Ministry of Education and Science of Kyrgyzstan, the Ministry of Internal Affairs of Kyrgyzstan, the Ministry of Health of Kyrgyzstan, the Ministry of Culture, Information and Tourism of Kyrgyzstan, the Ombudsman of Kyrgyzstan, the State Commission on Religious Affairs of Kyrgyzstan and the State Agency for Youth, Physical Culture and Sports under the Government of Kyrgyzstan. In accordance with this Plan, all the aforementioned Ministries and departments have drafted and approved guidelines and step-by-step instructions for enforcing the Act which correspond to their specific functions.

8. In the area of enhancing the capacity of the relevant State authorities, and particularly law enforcement agencies, comprehensive efforts have been directed at:

- institutionalizing special training programmes in the educational establishments and units of the Ministry of Internal Affairs, the Office of the Prosecutor-General, the Ministry of Health and the Judicial Training Centre;
- as well as a system of school and university education.

Thus, in Kyrgyzstan, prosecutorial authorities are constantly working to improve and strengthen the role of prosecutors in protecting the rights and freedoms of citizens, including the rights and interests of the victims of bride kidnapping. In particular, over the past two years, a special training programme has been developed with a view to institutionalizing gender violence prevention training programmes; it has been incorporated into professional development courses for the staff of prosecutorial authorities; a corresponding guidance manual has been issued and trainers have received instruction through the "training for trainers" approach. In addition, topics aimed at improving the gender sensitivity of the staff of prosecutors' offices have been included in mandatory training programmes for such staff.

9. Cascading training of department of internal affairs staff members has been carried out in every province of Kyrgyzstan. Trainers chosen from among the staff have been given instruction in conducting further training for other staff members in accordance with the "peer-to-peer" principle. In addition, a special and innovative practical handbook for trainers has been developed. It contains not only traditional teaching materials, but also videos and an online training course that includes an analysis of specific scenarios. A large run of ready-reference material has been issued for the daily use of department of internal affairs staff in the exercise of their duties, along with a collection of regulatory acts. A special course has been established at the Academy of the Ministry of Internal Affairs, contributing to the institutionalization of the training.

10. In recent years, comprehensive measures have been taken to increase the representation of women in the police forces and campaigns have been carried out to increase the professional skill and personal growth of female staff. To that end, a leadership and gender sensitivity training programme has been held and a mentoring programme has been created. The Association of Women Police Officers also actively participates in this work. Furthermore, with a view to ensuring the career advancement of female staff, a provision on competitive selection has been adopted; it provides that, in the event of candidates performing equally well, preference would be given to the candidate from the underrepresented gender and the representative of the ethnic minority. Joint gender-representative patrols including female staff have already been conducted, and a review has taken place of the experience of establishing and operating special units for combating domestic violence staffed by women. Thus, preparatory work for implementing the related recommendation is taking place, in order to train a greater number of women for employment at the Department of Internal Affairs, including through training at the Academy of the Ministry of Internal Affairs of Kyrgyzstan.

11. The Ministry of Health reports that all forensic doctors, including forensic experts and forensic psychiatrists, have received training on the effective medical documentation and reporting to law enforcement agencies of cases of gender-based violence. Standards for the effective medical documentation and reporting to the relevant law enforcement agencies have been incorporated into undergraduate and postgraduate medical training programmes. Regular and systematic training of medical professionals takes place through professional development courses. New legislation establishes that, starting in 2019, forensic investigations will also be conducted at the request of citizens, and not only pursuant to decisions issued by judicial investigatory bodies and prosecutorial authorities. Furthermore, training has been provided for lawyers, social workers, teachers, representatives of the local

administration and municipal authorities and, as a result of a partnership between the State Commission on Religious Affairs and DUMK (the Religious Authority of Kyrgyz Muslims), representatives of the clergy.

IV. Access to justice

12. In 2017, the Association of Women Judges of Kyrgyzstan carried out an analysis of judicial practice. Among the findings was that in 2016 the courts had examined 9 criminal cases and convicted 8 persons under article 154 of the Criminal Code of Kyrgyzstan, while under article 155 of the Criminal Code, the courts had examined 26 cases and convicted 40 persons. In 2017, the courts had examined 5 criminal cases and convicted 3 persons under article 154 of the Criminal Code, and had examined 25 criminal cases and convicted 47 persons under article 155 of the Criminal Code. The basic principles of judicial proceedings, found in almost all international legal acts, are also found in the Code of Criminal Procedure of Kyrgyzstan. Adherence to those principles results in fair trials.

13. Pursuant to article 40 of the Constitution of Kyrgyzstan, everyone has a right to legal assistance from qualified professionals. Pursuant to article 24 of the Constitution, individuals placed in custody will be kept safe, will be given the opportunity to conduct their own defence, obtain legal assistance from a qualified lawyer, and have the services of a defender, in accordance with the Act of Kyrgyzstan on guaranteed State legal assistance. Access to legal assistance is regulated by the Act of Kyrgyzstan on guaranteed State legal assistance. Under the terms of that Act, guaranteed State legal assistance takes two forms: legal advice, and legal assistance from a qualified professional. Legal advice consists of the following:

- legal information;
- consultation and explanation regarding legal matters;
- preparation of statements, complaints and other documents of a legal nature (apart from documents relating to trials);
- provision of assistance to secure the services of a qualified legal professional;
- other forms of legal assistance.

14. The right to legal assistance from a qualified legal professional in civil, administrative and criminal proceedings is extended to plaintiffs, defendants, suspects, accused persons, persons on trial, convicted persons, acquitted persons and witnesses under the age of majority whose annual income does not exceed 60 times the minimum wage established annually in the Act on the Budget of Kyrgyzstan. However, legal assistance from a qualified professional is also provided without regard to annual income to minors, acting in their own interest; to parents, acting in the interests of their children; to single mothers raising minors, and to individuals raising minors with no mother, in connection with issues relating to enforcing and protecting the rights and legal interests of children.

15. The Ministry of Justice is developing procedures to monitor the activities of lawyers providing guaranteed State legal assistance. In the context of the new Act on guaranteed State legal assistance, the Bar is developing and adopting criteria for the selection of lawyers for the guaranteed State legal assistance system. The criteria include possession of certification of study of the legislation regarding guaranteed State legal assistance. In that connection, an integrated syllabus for guaranteed State legal assistance is also under development. It provides for instruction for those involved in the guaranteed State legal assistance system, including lawyers

specializing in the fields of family violence, juvenile justice, gender equality and victims of torture, for example.

16. In order to defend the rights of the country's citizens and protect their legal interests, 20 free legal advice centres have been established for the use of individuals and legal persons. The advice centres are staffed by highly-qualified lawyers who provide free advice to all, irrespective of social status, regarding all issues, including gender equality and women's leadership.

17. The Ministry of Education has emphasized that Annex 5 to the Practical Handbook of the Ministry of Health of Kyrgyzstan contains instructions regarding the establishment of confirmation via imaging and photography of physical injury during medical examinations to record and document the effects of violence and torture and other cruel, inhuman or degrading treatment or punishment. The instructions are directed at medical personnel at all levels in healthcare establishments. The instructions establish an overall photographic system and clarify the basic rules of forensic photography connected with recording and documenting the effects of violence and torture and other cruel, inhuman or degrading treatment or punishment. The instructions are binding with regard to the tolerances and accuracy of technical processes required, and recommended with regard to the methods, resources and technologies used.

18. In addition to the above, a clinical protocol has been established (Order No ... of the Ministry of Health of Kyrgyzstan, of 10 January 2014) for medical personnel to use in cases of sexual assault. It contains recommendations regarding the conduct of medical examinations, the extent of medical intervention, sexually transmitted disease prophylaxis, including that relating to viral hepatitis and HIV/AIDS, prevention of unwanted pregnancy and post-conflict treatment of victims of sexual violence, including rape. The protocol makes detailed recommendations regarding effective interviewing and counselling of victims of sexual violence, the provision of information on State services and the provision of contact details of crisis centres and appropriate State entities. Plans have also been made for the development in 2018 of a clinical guide for the handling of early pregnancy and birth (clinical/psychological, medical/social and legal aspects), and standards for protecting children from violence, including early pregnancy and early marriage.

V. Equal right to freely choose a spouse and equal rights within marriage and upon its dissolution

19. The Civil Registry of Kyrgyzstan points out that pursuant to articles 4 and 27 of the Act of Kyrgyzstan on civil registration, State registration of marriages is performed by the civil registry offices of Kyrgyzstan.

20. In order to ensure compliance with articles 154 and 155 of the Criminal Code of Kyrgyzstan, as well as article 14 of the Family Code of Kyrgyzstan, which sets the age of marriage at eighteen and which specifies that, where there are valid reasons, the local authorities in the place of residence of individuals wishing to marry may lower the age of marriage by no more than one year for both men and women on the basis of a decision by the local office of the Government Children's Ombudsman, and subject to article 54 of the Family Code of Kyrgyzstan:

- A mother and father entering into marriage are recorded in the registry of births, as certified by either one of them, as the parents of the child. In the case of a child born to an unmarried mother, in the absence of such joint registration by the parents, or in the absence of a court paternity ruling, the surname of the child's father will be replaced in the register of births by the surname of the

mother and the first name, patronymic and nationality of the father will be recorded as indicated by the mother. Pursuant to paragraph 3, in the case of a child born to an unmarried mother, in the absence of such joint registration by the parents, or in the absence of a court paternity ruling, the surname of the child's father will be replaced in the register of births by the surname of the mother and the first name, patronymic and nationality of the father will be recorded as indicated by the mother.

21. Pursuant to article 18 of the Act of Kyrgyzstan on civil registration, the recording of the surname, first name and patronymic of a child upon registration of that child's birth shall:

- use the parents' surname;
- if the parents do not share a surname, the child will be registered under the surname of the father or the mother, as agreed between the parents;
- the first name of the child will be recorded as agreed between the parents;
- if there is no agreement between the parents regarding the first name and/or surname of the child (in cases in which the parents do not share a surname), the courts will rule on the disputed matter;
- unless ethnic-national custom specifies otherwise, a child's patronymic will be recorded on the basis of the father's first name;
- if the mother is not married to the father of the child and paternity has not been established, the child's first name will be recorded following the mother's wishes, and the record of the child's patronymic will correspond to the first name of the person recorded on the birth certificate as the child's father; the child's surname will correspond to the mother's surname;
- if the mother is not married to the father of the child, and has expressed the wish that information about the child's father should not appear in the registration of the child's birth, the child's patronymic will be as specified by the mother;
- if both parents are unknown, the local office of the Government Children's Ombudsman will determine the child's surname, first name and patronymic;
- depending on the wishes of the parents, children may be registered with the surname of their father or grandfather, or according to Kyrgyz ethnic-national traditions. The first names and surnames of persons of other nationalities may be written as they wish, in accordance with their traditions.

22. The State Committee on Religious Affairs of Kyrgyzstan has indicated that information and prevention programmes for the clergy are being implemented, in accordance with the plan of action for Kyrgyzstan State religious policy for 2015–2020, adopted through resolution No. 315-r of the Government of Kyrgyzstan, of 9 July 2015. As part of those programmes, mosque staff receive information on compliance with the law in the sphere of religion. They are also warned that a religious wedding ceremony cannot be held before the civil registration of a marriage.

23. Currently, the State Committee is preparing draft amending legislation regarding the Act of Kyrgyzstan on freedom of religion and religious organizations in Kyrgyzstan; this would establish that a religious wedding ceremony cannot be held in advance of the civil registration of a marriage.

24. The State Committee on Religious Affairs of Kyrgyzstan has indicated that information and prevention programmes for the clergy are being implemented, in accordance with the plan of action for Kyrgyzstan State religious policy for 2015–2020, adopted through resolution No. 315-r of the government of Kyrgyzstan, of

9 July 2015. As part of those programmes, mosque staff receive information on compliance with the law in the sphere of religion. They are also warned that a religious wedding ceremony cannot be held before the civil registration of a marriage.

VI. Victim support

25. The Ministry of Finance of Kyrgyzstan has indicated that the task of equipping crisis centres that provide medical, psychological and legal support, and of shelters for victims of bride kidnapping and the children of those victims, must be accomplished within the resources allocated to the Ministry of Labour and Social Development of Kyrgyzstan under the Act on the State social mandate. The Ministry of Labour and Social Development of Kyrgyzstan has indicated that, as part of the State social mandate, services are purchased from non-governmental organizations to provide comprehensive care for victims of gender-based violence. Since 2015, the Ministry of Labour and Social Development of Kyrgyzstan has operated a confidential telephone line, 111, to provide child victims of violence with psychological assistance.

26. However, the Ministry of Finance has indicated that the development and adoption of a programme to provide affordable housing for victims of bride kidnapping and their children has been made difficult by the significant national budget shortage. For that reason, help to provide victims with affordable housing, child care, education and other basic services for victims of bride kidnapping and their children must be funded by damages paid by the perpetrators of violence against women and children.

VII. Prevention and awareness-raising

27. In this connection, it should be noted that media coverage of the harm caused by, and the illegal nature of, bride kidnapping and early marriage, has increased substantially. A public awareness-raising campaign and innovative forms of work with young people have made it possible to mobilize individuals who do not wish to accept such negative practices, thanks to broad public impact.

28. However, the challenges and risks that impede a definitive solution to the problem cannot be ignored. Particularly in rural areas, it is common to find practices that are portrayed as more appropriate for the devout than adherence to the terms of the law. With this in mind, the appropriate State bodies are conducting a broad information campaign, which has been made compulsory for representatives of religious communities, non-governmental organizations, prominent campaigners and local communities. Despite the obstacles, which include gender stereotypes and which can be found even among the staff of State bodies involved in these matters, thus diminishing the effectiveness of efforts, there has been recent progress towards overcoming the social problems under consideration.

29. The Ministry of Education and Science of Kyrgyzstan has indicated that prevention of early marriage is part of the implementation of gender policy in educational institutions. Equal access to education and achieving gender equity have been pursued through a tailored educational policy taking account of the gender aspects of education. Gender-related issues are allotted teaching time in schools in the context of several subjects on the curriculum, including law, social studies, adep sabagy (moral education) and ethics. The teaching of social studies and adep sabagy (moral education) in general schools includes information and awareness-raising with a human rights focus, and including the issue of violence against women. A mandatory subject, adep sabagy, covers the teaching of standards of personal conduct, explains

society's expectations regarding the individual's spiritual and moral qualities, and the spiritual traditions of the Kyrgyz people and other peoples. A course entitled "Inhabitants of Kyrgyzstan" is taught to all, from grades 1 to 11. There are subject modules devoted to relationships within the family. A distinct course, "Uy-bulo" ("Family") is taught in grade 9. In that connection, teachers have received refresher courses and training on incorporating gender perspectives into family education through general educational programmes. The social studies curriculum (taught in grades 10 and 11) includes a gender perspective. The teaching of these subjects instils in students abilities including personal, social and professional competence; self-esteem; tolerance; a desire to respect and protect human rights; and respect for other cultures and religions. Through this instruction, students will learn about the history, traditions and customs, and the national characteristics of, the Kyrgyz people and other peoples, and about ethnic relations and interaction. All educational institutions in the country conduct activities outside school hours (classes and parent-teacher meetings, open lessons) focusing on morals, patriotism and civic, multicultural and labour matters; they include discussion of gender issues. Healthy-living curriculums for students in grades 6–11 have been developed; they include prevention of gender stereotyping, and measures to turn boys away from harmful practices including bride kidnapping. Ministerial order No. 1024/1 of 22 July 2015 adopted the basic curriculum for general educational institutions in Kyrgyzstan for 2015–2016; it covers issues such as early pregnancy and child behaviour. The curriculums have been adopted at undergraduate and postgraduate levels at the I. Arabayev Kyrgyz State University, the B. Yeltsin Kyrgyz — Russian (Slavonic) University and the Karasayev Bishkek Humanitarian University. Cooperation with the UNESCO Institute for Information Technologies in Education (IITE) and the Nowchpok studio resulted in the production of 11 edutainment videos (about 5 minutes in length) devoted to the teenage years, gender culture and young people, preventing abuse of psychoactive substances, preventing youth violence, reproductive health and sexual relations, prevention of HIV and STIs, interpersonal relations and conflict resolution, and prevention of computer addiction and online violence among young people. The videos have been recommended for use during information campaigns for teenagers and young people aimed at preventing HIV infection and encouraging healthy living, as support for teachers and youth workers during optional exercises, extracurricular and special events focusing on prevention and targeted at students, including teenagers in high-risk groups, and also during work with youth-friendly centres and children's and young people's associations. The videos are accompanied by methodological recommendations (handbooks) developed by experts from the Ministry of Education and Science of Kyrgyzstan, the Kyrgyz Academy of Education, and teaching staff of the I. Arabayev Kyrgyz State University.

30. All the informational and methodological materials on healthy living for students intended for use in educational institutions are suitably assessed and reviewed; they are aimed at instilling responsible behaviour in teenagers and young people, on the basis of life skills.

31. The Ministry of Culture, Information and Tourism of Kyrgyzstan has indicated that the main reason for the failure to finance an information campaign is the lack of funds in the State budget. Donor-financed media campaigns on this issue fail to reach all of the population, because of financial constraints and the scale of the problem. In the light of this situation, work is under way to establish a code of conduct for the media, to encourage gender equity and public discussion of bride kidnapping, and to prevent the publication in the media of gender-discriminatory images.

VIII. Data collection

32. The Ministry of Health has indicated that its system for collecting statistics on those seeking medical assistance because of violence covers all State healthcare facilities and crisis centres to which victims might turn. In order to maintain primary statistics, there is a single register of victims of violence who have used healthcare facilities and crisis centres (annex 9 of the Handbook) and Instructions on the maintenance of the register (annex 10 of the Handbook). The Instructions specify that the register should be kept by specialists in admitting departments, doctors at family health centres, family medical practitioners, paramedics and nurses at midwifery units, doctors or paramedics at urgent care centres or departments or doctors at forensic offices or departments. The register should be used to record all individuals who have visited healthcare facilities as a result of violence.

33. The register is a single, unified source for the judiciary, law-enforcement agencies and crisis centres to which information should be transmitted. The information in the register make it possible to report cases of violence, and to provide a breakdown by type of violence. The reporting of statistics on violence includes the number of visits to healthcare facilities for physical, sexual, psychological and other violence, and provides a gender and age profile of the patients. Although the medical statistical reports do not distinguish violence resulting from bride kidnapping, account is taken of the setting in which the violence was suffered, including family or domestic settings.

34. The Ministry of Labour and Social Development has indicated that, on the basis of figures from the national "gender in the perception of society" survey, the National Statistics Committee of Kyrgyzstan conducted a national "gender perception in society" survey for 2015–2016, with technical and financial support from UNFPA. The performance of a comprehensive national survey on society's views of gender had been provided for in National Action Plan for Gender Equality for 2015–2017[1] as part of the implementation of the National Strategy for the Achievement of Gender Equality by 2020.[2]

35. The need for surveys on a wide range of gender issues had been pointed out by the relevant United Nations committee in the concluding observations on the fourth periodic report of Kyrgyzstan on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. In that connection, the process of conducting a "gender in the perception of society" survey was begun. The project was financed by the United Nations Peacebuilding Trust Fund and implemented in collaboration with UN-Women, UNFPA and IOM in Kyrgyzstan. The Ministry of Labour and Social Development of Kyrgyzstan was a partner in the implementation of the project.

36. Support for the development of methodologies and survey methods was provided by representatives of the leading local higher education institutions, research institutes, community organizations, ministries and administrative departments, including the offices of the President of Kyrgyzstan, the national Academy of Sciences, the National Defence Council, the Ministry of Culture, Information and Tourism, and the Ministry of Internal Affairs of Kyrgyzstan. The National Statistics Committee of the Republic of Kyrgyzstan served as the implementing agency for a number of components of the project, including the household survey.

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[1] Adopted by Decision No. R 786, of 20 November 2015, of the Government of the Kyrgyz Republic.

[2] Adopted by Decision No. 443, of 27 June 2012, of the Government of the Kyrgyz Republic.

37. The aim of the "gender perception in society" survey for 2015–2016 was to collect a significant volume of reliable evidence on political participation, economic issues, entrepreneurship, religious beliefs and practices, migration, early marriage and bride kidnapping among groups at risk in connection with the expansion of women's rights and opportunities, and women's involvement in conflict resolution.

38. The results of the survey may be useful for State institutions developing policies and programmes in the areas of gender equality and inclusive peacebuilding, and for international agencies, including members of the United Nations country team and partner community organizations, in order to establish sustainable peace and expand women's rights and opportunities.